

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: April 20, 2005

Division: Engineering

Bulk Item: Yes X No     

Department: Engineering

Staff Contact Person: David S. Koppel, P.E.  
County Engineer

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**AGENDA ITEM WORDING:** Approval of a Joint Use Park Interlocal Agreement with the Monroe County School Board to develop and maintain a joint use park at Sugarloaf School.

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**ITEM BACKGROUND:** This project was previously in the capital improvements plan and is still desired by the community.

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**PREVIOUS RELEVANT BOCC ACTION:** At their January 19, 2005 BOCC meeting, the Board approved \$1.5 million for this project.

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**CONTRACT/AGREEMENT CHANGES:** New agreement.

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**STAFF RECOMMENDATIONS:** Approval as stated above.

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**TOTAL COST:** (not to exceed)\$1,500,000.00 **BUDGETED:** Yes X No     

**COST TO COUNTY:** (not to exceed)\$1,500,000.00 **SOURCE OF FUNDS:** Fund 304

**REVENUE PRODUCING:** Yes      No X **AMOUNT PER MONTH**      **Year**     

**APPROVED BY:** County Atty X OMB/Purchasing      Risk Management     

**DIVISION DIRECTOR APPROVAL:**

  
David S. Koppel, PE, County Engineer

**DOCUMENTATION:** Included X Not Required     

**DISPOSITION:**      **AGENDA ITEM #**

**JOINT USE PARK**  
**INTERLOCAL AGREEMENT**

This Agreement is made and entered into by MONROE COUNTY (COUNTY), a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL 33040, and the SCHOOL BOARD OF MONROE COUNTY (SCHOOL BOARD), as the contracting agent for the School District of Monroe County, a public agency of the State of Florida, whose address is 241 Trumbo Road, Key West, FL 33040.

WHEREAS, COUNTY is authorized by Section 125.01(1)(f), F.S. to provide public parks; and

WHEREAS, SCHOOL BOARD is authorized by Section 1013.10, F.S. to permit the use of school grounds for community use centers; and

WHEREAS, the parties did enter into an interlocal agreement dated July 15, 1992, for the provision of enhanced recreational facilities on public school grounds; and

WHEREAS, said master agreement was amended by Addendum Two, providing for the County to pay for \$58,801.35 for athletic improvements at Sugarloaf School; and

WHEREAS, the parties did, by interlocal agreement dated October 28, 1999, as amended on February 21, 2001, provide for the County to pay a total of \$53,171 per annum for the maintenance of recreational facilities at Sugarloaf School and Key Largo Elementary School; and

WHEREAS, the parties are authorized by Section 163.01(4), Florida Statutes, to enter into an interlocal agreement to carry out their independent powers;

WHEREAS, it is desired to provide for the development of a joint use park on the Sugarloaf School grounds, in addition to the existing agreement to provide maintenance funding for the existing recreational facilities at said school; now therefore,

IN CONSIDERATION OF the mutual promises and conditions contained herein, the PARTIES agree as follows:

1. **SCOPE.** The Parties shall develop and maintain a joint use Park at Sugarloaf School. This agreement is in addition to the interlocal agreement dated October 28, 1999, and amended on February 21, 2001, providing for the County to pay an annual sum for the maintenance of recreational facilities at Sugarloaf School and Key Largo Elementary School. All terms and conditions of the aforementioned Agreement shall remain in force and effect unless specifically modified or amended herein.

2. **TERM.**

A. Subject to and upon the terms and conditions set forth herein, this Agreement shall continue in force for a term of twenty years commencing as of the \_\_\_\_ day of \_\_\_\_\_, 2005 and ending on the \_\_\_\_ day of \_\_\_\_\_, 2025.

B. The parties may extend this agreement after the expiration of the term described herein according to such terms and conditions as may be agreed to at the time of extension.

3. **USE AND CONDITIONS.** The premises, which are defined as that area designated as "JOINT USE PARK" on the Sketch attached hereto as Exhibit A, shall be used solely for the purposes of providing a park for joint use for Sugarloaf School and the general public.

A. **REGULATIONS.** The County's Parks and Recreational Board shall work with School Board staff to develop and recommend regulations governing the use and operations of the park additional to such rules and regulations set forth by County Ordinance regarding all County parks. Rules and regulations for the joint use park shall be subject to approval by resolution by each of the Parties.

B. **MANAGEMENT.** SCHOOL BOARD shall contract for design/build, provide for operations management, including but not limited to maintenance and the scheduling of events and organized use of the park.

C. **CAPITAL FUNDING.** COUNTY shall provide capital funding for the Joint Use Park in an amount not to exceed \$1,500,000, payment to be made as follows

Payment for expenditures permissible by law and County policies shall be made through reimbursement to SCHOOL BOARD upon presentation of Application for Payment Summary - AIA Document G702 (or equivalent), invoices, canceled checks and other documentation necessary to support a claim for reimbursement. All submissions for payment shall be based upon an approved schedule of values for phases and indicate the percentage of completion for each item as of the date of the submission. This document should be signed by the project architect, engineer, general contractor or project manager. Photos of the progress of the work shall also be submitted with the payment application.

The application for payment document must be certified through a statement signed by the SCHOOL BOARD's construction project manager and notarized, declaring that representations in the invoice are true and factual.

SCHOOL BOARD shall also provide partial releases of liens or certifications of non-lien if applicable. COUNTY shall retain 10% of any payment on work in progress until the SCHOOL BOARD has provided a Final Release of Lien for each vendor/Contractor for whom payment is requested. Final payment will not be made until the following documents are complete and submitted to the COUNTY:

AIA Document	G-702	Application for Payment Summary
AIA Document	G-704	Certificate of Substantial Completion
AIA Document	G-706	Contractor's Affidavit of Debts & Claims
AIA Document	G-706A	Contractor's Affidavit of Release of Liens
AIA Document	G-707	Consent of Surety to Final Payment
Final Release of Lien		
Affidavit and Partial Release of Lien		

SCHOOL BOARD may elect to have vendors and contractors paid through the direct vendor method, upon submission of appropriate documentation as outlined above.

Funding under this provision of the agreement is contingent upon annual appropriation by the COUNTY governing board.

**D. COUNTY IN-HOUSE RESOURCES AND OUTSOURCE SUPPLIERS.** COUNTY shall provide as much assistance as possible with its own employees and equipment, as well as procurements to reduce costs. It is contemplated by the parties at the time of approving this agreement that COUNTY shall be able to contribute significantly to groundwork preparation. Should COUNTY be able to provide assistance beyond groundwork preparation, the parties will act as expeditiously as possible to coordinate approval of such contribution of COUNTY resources to the project.

**E. SIGNAGE.** Portable or temporary advertising signs are prohibited. It is expected that permanent signage and signage which includes changing messages via lighting or magnetic letters will be erected, particularly in the form of scoreboards, and the existing "SUGARLOAF SCHOOL MARQUIS" shall be retained in its location.

**4. UTILITIES.** SCHOOL BOARD shall arrange for utilities to be provided. COUNTY shall pay one-half (1/2) of the water costs for the joint use park, and one-half (1/2) of the sewerage costs for the joint use park at any time that School Board is connected to a centrally located wastewater treatment plant. COUNTY shall pay 100% of the electric costs for lighting until such time as it is determined that school event usage of the lighting features are co-equal to the usage by the general public, including community organizations. The parties shall share in the costs of utility connection fees, impact fees, effluent discharge units, or any other costs associated with the placement of utility infrastructure to provide utility services to the premises. COUNTY shall make

payment pursuant to the Florida Prompt Payment Act for such utility costs as are attributable to COUNTY under this agreement and which are properly documented in the submission of an invoice to the COUNTY on a [monthly/quarterly] basis. Funding under this provision of the agreement is contingent upon annual appropriation by the COUNTY governing board.

5. **ALTERATIONS and IMPROVEMENTS.** No structure or improvements of any kind, whether temporary or permanent, shall be placed upon the land without prior approval in writing by the Superintendent of Schools and any permits required by law by any agency, federal or state. Any such structure or improvements shall be constructed in a good and workmanlike manner.

Upon the natural termination of this interlocal agreement, the SCHOOL BOARD may retain ownership of the fixtures and improvements acquired under this agreement.

6. **MECHANIC'S LIENS.** SCHOOL BOARD shall not permit any mechanic's lien or liens to be placed on the Property or on improvements on it. If a mechanic's lien is filed, it shall be the sole responsibility of the SCHOOL BOARD or its officer, employee, agent, contractor or other representative causing the lien to be filed to discharge the lien and to hold harmless and defend SCHOOL BOARD against enforcement of such lien.

7. **RECORDS - ACCESS AND AUDITS.** Both Parties shall maintain adequate and complete records for a period of four years after termination of this lease. Each Party, its officers, employees, agents and contractors shall have access to the Other Party's books, records, and documents related to this Agreement upon request. The access to and inspection of such books, records, and documents by the Parties shall occur at any reasonable time.

8. **RELATIONSHIP OF PARTIES.** The Parties are independent of each other and shall at no time be legally responsible for any negligence on the part of the Other Party, its employees, agents or volunteers resulting in either bodily or personal injury or property damage to any individual, property or corporation.

9. **TAXES.** The Parties are not subject to taxes and assessments.

10. **INSURANCE.** The parties to this agreement stipulate that each is a state governmental agency as defined by Florida Statutes and represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, in amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes Section 768.28 and Chapter 440, as well as any and all

claims within the limitations of Florida Statutes arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its employees, agents, contractors, and subcontractors and shall defend, indemnify and hold the other party harmless from all claims arising out of such actions.

Each party agrees to keep in full force and effect the required insurance coverage during the term of this Agreement. If the insurance policies originally purchased which meet the requirements of this agreement are canceled, terminated or reduced in coverage, then the respective party must immediately substitute complying policies so that no gap in coverage occurs. Copies of current policy certificates shall be filed with the Other Party whenever acquired or amended.

11. **CONDITION OF PREMISES.** The SCHOOL BOARD must keep the premises in good order and condition. The SCHOOL BOARD must promptly repair damage to the premises. The SCHOOL BOARD is solely responsible for any improvements to land and appurtenances placed on the premises. Neither party shall commit waste on the premises, nor maintain or permit a nuisance on the premises. It is anticipated that SCHOOL BOARD will provide such security as it provides for the remainder of the Sugarloaf School grounds during the life of this agreement.

A. **DEDICATION FOR RECREATIONAL PURPOSES.** Real property improved through funding under this agreement shall remain dedicated for the recreational purposes for the full twenty years which is the contracted term of this agreement, whether or not the agreement is continued for its full term or terminated early for any reason, including termination of the participation of County in covering maintenance and utility costs. In the event this provision is breached, SCHOOL BOARD shall repay to the County a prorated amount based on a useful life for public use of 19 years. This provision shall survive the termination date of all other provisions of this contract until \_\_\_\_\_, 2025.

B. **MAINTENANCE.** SCHOOL BOARD is responsible for the implementation of adequate maintenance procedures to keep the real property and improvements in good operating condition. COUNTY shall pay one-half (1/2) of the costs of maintenance up receipt of properly documented invoices and pursuant to the Florida Prompt Payment Act. Funding under this provision of the agreement is contingent upon annual appropriation by the COUNTY governing board.

C. **STORAGE OF HURRICANE DEBRIS.** The parties have in the past allowed the premises to be used for temporary storage of hurricane debris. SCHOOL BOARD agrees to allow COUNTY to temporarily store hurricane debris on other premises adjacent to Sugarloaf School in the event such

storage is needed after a hurricane.

**12. RESTRICTIONS ON AGREEMENTS ENTERED PURSUANT TO THIS AGREEMENT.** The SCHOOL BOARD shall include in all agreements funded under this agreement the following terms:

A. Anti-discrimination. Contractor agrees that they will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this agreement because of their race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

B. Anti-kickback. Contractor warrants that no person has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the SCHOOL BOARD has any interest, financially or otherwise, in contractor. For breach or violation of this warranty, the SCHOOL BOARD shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee. Contractor acknowledges that it is aware that funding for this agreement is available through the County and that violation of this paragraph may result in the County withdrawing funding for the Project.

C. Hold harmless/indemnification. Contractor acknowledges that this agreement is funded at least in part by the County and agrees to indemnify and hold harmless the County and any of its officers and employees from and against any and all claims, liabilities, litigation, causes of action, damages, costs, expenses (including but not limited to fees and expenses arising from any factual investigation, discovery or preparation for litigation), and the payment of any and all of the foregoing or any demands, settlements or judgments (collectively claims) arising directly or indirectly from any negligence or criminal conduct on the part of Contractor in the performance of the terms of this agreement. The Contractor shall immediately give notice to the County of any suit, claim or action made against the Contractor that is related to the activity under this agreement, and will cooperate with the County in the investigation arising as a result of any suit, action or claim related this agreement.

D. Insurance. Contractor agrees that it maintains in force at its own expense a liability insurance policy which will insure and indemnify the Contractor and the County from any suits, claims or actions brought by any person or persons and from all costs and expenses of litigation brought against the Contractor for such injuries to persons or damage to property occurring during the agreement or thereafter that results from performance by Contractor of the obligations set forth in this agreement. At all times during the term of this agreement and for one year after acceptance of the project,

Contractor shall maintain on file with the County a certificate of the insurance of the carriers showing that the aforesaid insurance policy is in effect. The following coverage's shall be provided:

1. Workers Compensation insurance as required by Florida Statutes.
2. Commercial General Liability Insurance with minimum limits of \$500,000 per occurrence for bodily injury, personal injury and property damage.
3. Comprehensive Auto Liability Insurance with minimum limits of \$300,000 combined single limit per occurrence.

The Contractor, the County and the SCHOOL BOARD shall be named as additional insured, exempt workers compensation. The policies shall provide no less than 30 days notice of cancellation, non-renewal or reduction of coverage.

At all times during the term of this agreement and for one year after acceptance of the project, Contractor shall maintain on file with the County a certificate of insurance showing that the aforesaid insurance coverage's are in effect.

e) Licensing and Permits. Contractor warrants that it shall have, prior to commencement of work under this agreement and at all times during said work, all required licenses and permits whether federal, state, County or City.

f) Right to Audit. The Contractor shall keep such records as are necessary to document the performance of the agreement and expenses as incurred, and give access to these records at the request of the SCHOOL BOARD, the County, the State of Florida or authorized agents and representatives of said government bodies.

13. **HOLD HARMLESS.** To the extent allowed by law, the SCHOOL BOARD is liable for and must fully defend, release, discharge, indemnify and hold harmless the COUNTY, the members of the County Commission, County officers and employees, County agents and contractors, and the Sheriff's Office, its officers and employees, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type - including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the SCHOOL BOARD's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the COUNTY. The SCHOOL BOARD's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. SCHOOL BOARD does not waive any of its sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.



To the extent allowed by law, the COUNTY is liable for and must fully defend, release, discharge, indemnify and hold harmless the SCHOOL BOARD, its members, officers and employees, agents and contractors, from and against any and all claims, demands, causes of action, losses, costs and expenses of whatever type - including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the COUNTY's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the SCHOOL BOARD. The COUNTY's purchase of the insurance required under this Agreement does not release or vitiate its obligations under this paragraph. COUNTY does not waive any of its sovereign immunity rights including but not limited to those expressed in Section 768.28, Florida Statutes.

**14. NON-DISCRIMINATION.** The SCHOOL BOARD and the COUNTY, each for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of premises or in the contracting for improvements to the premises.

COUNTY and SCHOOL BOARD agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. COUNTY AND SCHOOL BOARD agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss.

1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of

disability; 10) Monroe County Code Ch. 13, Art. VI, prohibiting discrimination on the bases of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

15. **TERMINATION.** Either party may terminate this agreement for cause after giving to the other party at least ninety days written notice of the breach, allowing the allegedly breaching party a period of forty-five (45) days within which to cure said breach. Failure to cure the breach shall be noticed by the terminating party in writing and provided to the breaching party at least twenty (20) days prior to the termination date. Nothing in this paragraph shall abrogate the SCHOOL BOARD's requirement to maintain the use of the premises as a recreational facility, open to the public, unless, pursuant to Section 11.A. of this agreement, School Board pays COUNTY a prorated amount of the funding provided for the improvements made to create the joint use park.

16. **ASSIGNMENT.** The SCHOOL BOARD may not assign this Agreement or assign or subcontract any of its obligations under this Agreement without the approval of the COUNTY's Board of County Commissioners. All the obligations of this Agreement will extend to and bind the legal representatives, successors and assigns of the SCHOOL BOARD and the COUNTY.

17. **SUBORDINATION.** This Agreement is subordinate to the laws and regulations of the United States, the State of Florida, and the COUNTY, whether in effect on commencement of this lease or adopted after that date.

18. **INCONSISTENCY.** If any item, condition or obligation of this Agreement is in conflict with other items in this Agreement, the inconsistencies shall be construed so as to give meaning to those terms which limit the County's responsibility and liability.

19. **GOVERNING LAWS/VENUE.** This Agreement is governed by the laws of the State of Florida and the United States. Venue for any dispute arising under this Agreement must be in Monroe County, Florida. In the event of any litigation, the prevailing party is entitled to a reasonable attorney's fee and costs.

20. **ETHICS CLAUSE.** SCHOOL BOARD warrants that it has not employed, retained or otherwise had act on its behalf any former County officer or employee subject to the prohibition of Section 2 of ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision, the COUNTY may, in its discretion, terminate this Lease without liability and may also, in its discretion, deduct from the Lease or purchase price, or otherwise

recover, the full amount of any fee, commission, percentage, gift or consideration paid to the former County officer or employee.

21. **CONSTRUCTION.** This Agreement has been carefully reviewed by the SCHOOL BOARD and the COUNTY. Therefore, this Agreement is not to be construed against any party on the basis of authorship.

22. **NOTICES.** Notices in this Agreement, unless otherwise specified, must be sent by certified mail to the following:

COUNTY:

County Administrator  
1100 Simonton Street  
Key West, FL 33040

SCHOOL BOARD:

Fred Sims, TPM Liaison  
241 Trumbo Road  
Key West, FL 33040

23. **FULL UNDERSTANDING.** This Agreement is the parties' final mutual understanding. It replaces any earlier agreements or understandings, whether written or oral. This Agreement cannot be modified or replaced except by another written and signed agreement.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative.

(SEAL)

ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF MONROE COUNTY, FLORIDA

By: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor/Chairman

Deputy Clerk

SCHOOL BOARD OF MONROE COUNTY

(SEAL)

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_  
CHAIRPERSON

By: \_\_\_\_\_  
Superintendent

Sugarloaf Joint Use Park

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

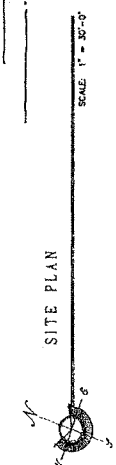
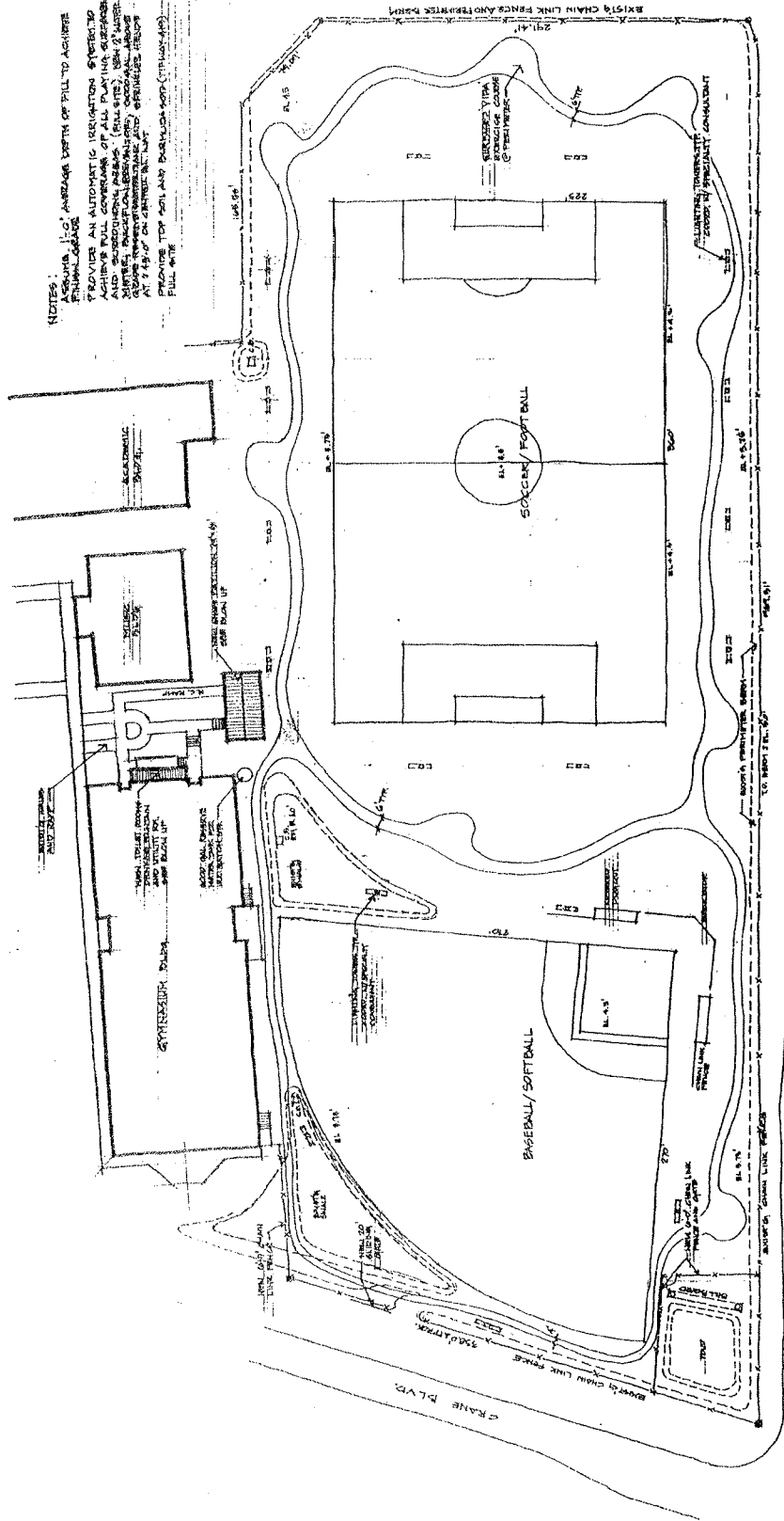
SUZANNE A. HUTTON

ASSISTANT COUNTY ATTORNEY

Date

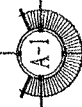
3/28/05

NOTES:  
1. PROVIDE AN AUTOMATIC IRRIGATION SYSTEM TO  
ACHIEVE FULL COVERAGE OF ALL PLAYING SURFACES.  
2. PROVIDE A PERMANENT FENCE AROUND THE  
ENTIRE PERIMETER OF THE SITES.  
3. PROVIDE A PERMANENT FENCE AROUND THE  
ENTIRE PERIMETER OF THE SITES.  
4. PROVIDE A PERMANENT FENCE AROUND THE  
ENTIRE PERIMETER OF THE SITES.  
5. PROVIDE A PERMANENT FENCE AROUND THE  
ENTIRE PERIMETER OF THE SITES.



SITE PLAN

SUGARLOAF MIDDLE SCHOOL  
ATHLETICS FIELDS  
SUGARLOAF KEY, FLORIDA



APPROVED BY: \_\_\_\_\_  
 PROJECT: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 SCALE: \_\_\_\_\_  
 SHEET: \_\_\_\_\_

SUGARLOAF  
 MIDDLE  
 SCHOOL  
 ATHLETICS  
 FIELDS  
 SUGARLOAF KEY  
 FLORIDA

DATE: 11-20-74

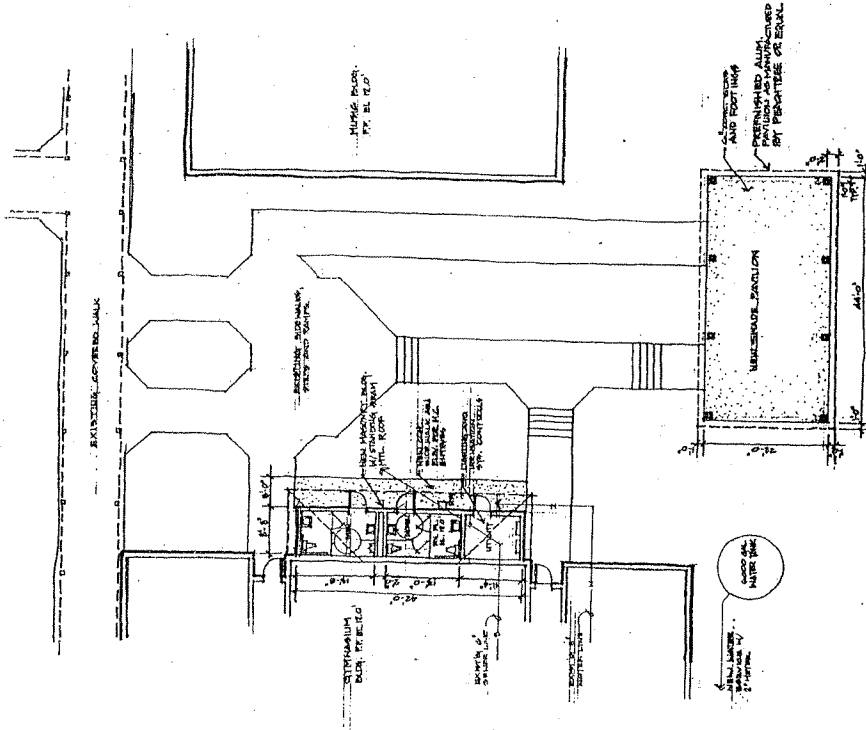
DATE: 11-20-74

DATE: 11-20-74

DATE: 11-20-74

DATE: 11-20-74

A2



SUGARLOAF MIDDLE SCHOOL  
 ATHLETICS FIELDS  
 SUGARLOAF KEY, FLORIDA

PLAN

SCALE 1/8" = 1'-0"